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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,386	03/25/2004	Charles Ciccarello	12130-19us GH/ik	5548
20988 7590 07/23/2007 OGILVY RENAULT LLP 1981 MCGILL COLLEGE AVENUE SUITE 1600 MONTREAL, QC H3A2Y3 CANADA			EXAMINER BARTOSIK, ANTHONY N	
			ART UNIT 3609	PAPER NUMBER
			MAIL DATE 07/23/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/808,386

Applicant(s)

CICCARELLO ET AL.

Examiner

Anthony N. Bartosik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on March 25, 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f):
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show "pavement 30" as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "16" has been used to designate both "side walls" and "contour

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edges.” Additionally, reference character “16” has been used to designate both “side wall” and “contour edges.” Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheets should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

1. 3. Claim 10 is objected to because of the following informalities: a grammatical error exists between the words “sections” and “provided.” It appears that the word “are” was meant to be in-between the aforementioned words. Appropriate correction is required.
2. Claim 11 is objected to because of the following informalities: Applicant has referred to claimed structure from claim 1 in claim 1 (“concrete stones as claimed in claim 1”). Examiner suggests applicant include the structure cited from claim 1 in claim 11, thereby eliminating any potential ambiguity. Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1, 2, 5-9, 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshida et al. (US 5,051,023).**

7. In Re claim 1, Figures 1-3 of Yoshida et al. disclose a base section (1-1) of predetermined thickness and having straight side wall sections, a stone section (1-2) formed integral with said base section (1-1) and projecting from an outer surface (2) of said base section (1-1), said stone section (1-2) being recessed from at least two adjacent ones of said straight side wall sections and exposing a top flat edge surface of said outer surface of said base section (1-1) about at least two adjacent flat edge surfaces of said stone section (1-2), at least one of said straight side wall sections being an angled side wall section adapted to mate with an angled side wall section of another precast concrete stone whereby said stones can be disposed side-by-side and offset from one another to obstruct at least some straight continuous joints between a plurality of adjacent stones. Examiner is interpreting "angled side wall section" of claim 1, to include the 90° angle of Yoshida et al. Furthermore, if the stones were staggered during placement then they can be disposed side-by-side and offset from one another to obstruct at least some straight continuous joints between a plurality of adjacent stones.

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8. In Re claim 2, Figures 1-3 of Yoshida et al. disclose a stone section that is recessed from all of said straight side walls exposing said flat edge surface all about said stone section.

9. In Re claim 5, Figures 1-3 of Yoshida et al. disclose a base section that is at least twice the thickness of said stone section.

10. In Re claim 6, Figures 1-3 of Yoshida et al. disclose stones, that when positioned side-by-side, define a recessed joint therebetween formed by adjacent top flat edge surfaces of said base sections of said stones.

11. In Re claim 7, Figures 1-3 of Yoshida et al. disclose a precast concrete stone that is a paver stone.

12. In Re claim 8, Figure 4C and Column 3 Lines 29-31 of Yoshida et al. disclose a stone section that has rounded corners and wherein said top surface is a molded embossed top surface.

13. In Re claim 9, Figures 1-3 of Yoshida et al. disclose a precast concrete stone that is a retaining wall block wherein said side wall sections are elongated side wall sections forming a retaining wall block section adapted to be laid horizontally in side wall contact with like adjacent blocks with said stone section being disposed vertically.

14. In Re claim 11, Figures 1-3 of Yoshida et al. disclose at least two precast concrete stones as claimed in claim 1 (see the rejection of claim 1) in combination with a plurality of rectangular precast concrete stones having a base section (1-1) of predetermined thickness and opposed straight parallel sidewall sections, a substantially rectangular stone (1-2) section formed integral with said base section (1-1) and

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projecting from an outer surface of said base section (1-1), said stone section (1-2) being recessed from said straight parallel sidewall sections and exposing a top flat edge surface of said outer surface of said base section (1-1) all about said stone section (1-2), said at least two stones having identical ones of said angled side wall sections, said at least two stones having their angled side wall sections disposed side-by-side in contact relationship, said at least two stones providing obstructions to straight continuous joints formed between said rectangular precast concrete stones. Examiner is interpreting "angled side wall sections" of claim 1, to include the 90° angle of Yoshida et al. Furthermore, if the stones were staggered during placement then they can be disposed side-by-side and offset from one another to obstruct at least some straight continuous joints between a plurality of adjacent stones.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. **Claims 3, 4, and 12-14 rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshida et al. (US 5,051,023) in view of Gaudelli et al. (US 3,426,122).**

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17. In Re claim 3, Figures 1-3 of Yoshida et al. teach the limitations from which claim 3 depends except a stone section that has an irregular contour side wall. Figure 1C and 1D of Gaudelli et al. teach an irregular contour side wall for ornamental features. It would have been obvious to one skilled in the art at the time of the invention to modify the stone section of Yoshida et al. to include a contoured side wall as taught in Gaudelli et al. in order to add an ornamental appearance.

18. In Re claim 4, Figure 1C and 1D of Gaudelli et al. discloses a stone section that has an irregular top surface resembling a stone texture.

19. In Re claim 12, Figure 4C and Column 3 Lines 29-31 of Yoshida et al. disclose a stone section that has rounded corners.

20. In Re claim 13, Figures 1-3 of Yoshida et al. disclose stones that define joints between said side edges of adjacent stone sections and said adjacent top flat edge surfaces, and a fill material in said joints.

21. In Re claim 14, Column 3 Lines 25-28 of Yoshida et al. disclose fill material that is sand.

22. **Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshida et al. (US 5,051,023) in view of Woolford et al. (US 6,142,713).** Yoshida et al. teaches all the limitations that claim 10 depends from, however, it fails to teach a retaining wall block sections provided with opposed aligned transverse grooves in opposed horizontal side walls thereof and adapted to receive an interlocking insert therein for interlocking blocks in aligned facial contact. Figures 1-3 of Woodford et al. teach retaining wall block sections provided with opposed aligned transverse grooves in

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opposed horizontal side walls thereof and adapted to receive an interlocking insert therein for interlocking blocks in aligned facial contact. It would have been obvious to one skilled in the art at the time of the invention to modify the block of Yoshida et al. and include grooves as taught by Woolford et al. in order to create a manner in which to lock the stones together.

Conclusion

Prior art made of record but not relied upon is considered pertinent to applicant's disclosure. Curtis (US 3,247,774), Hart (US 6,939,077), Jurik (US 5,466,089), Sherry (US 5,787,666), Schmitz et al. (US D498,543).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony N. Bartosik whose telephone number is 2723600. The examiner can normally be reached on M-F 7:30-5:00; Alter Fri Off E.D.T. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Batson Victor can be reached on 571-272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Victor Batson
Supervisory Patent Examiner
Art Unit 3600

AB
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